



Department of Financial Services

ANDREW M. CUOMO
Governor

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Superintendent

SENT VIA EMAIL

E-mail: 66315-31396031@requests.muckrock.com

July 2, 2019

Mr. Taylor S. Amarel
MuckRock News
DEPT MR 66315
411A Highland Avenue
Somerville, MA 02144

Re: Your Freedom of Information Law ("FOIL") Tracking No. 2018-073599

Dear Mr. Amarel:

I write in response to the FOIL request you submitted to the New York State Department of Financial Services ("Department") on December 19, 2018, which has been assigned the above-referenced tracking number and seeks: "emails sent to, from, or copied to Maria Vullo, (New York department of financial services superintendent), from January 1, 2017 to present day containing any of the following non-case-sensitive keywords: 'Whistleblower' 'Fraud' 'Money Laundering' 'Trafficking' 'Western Union' I request that you ignore spam, junk mail, or newsletters."

Public Officers Law § 89(3) requires a FOIL request to reasonably describe the records sought. A FOIL request was found to meet the reasonably described requirement when the respective agency could locate and identify the records sought according to the agency's filing, indexing and means of retrieval. see Committee on Open Government FOIL-AO-18949. However, the Committee on Open Government has opined that even if the FOIL request is reasonably described it could still be invalid if the request requires "an agency to review thousands of records that may contain a particular search term or terms." Stated differently, an agency is not required to engage in herculean or unreasonable efforts to locate responsive records. For example, a FOIL request that located more than three thousand (3,000) electronic records that an agency needed to review to ascertain which records were responsive to the FOIL request was found to be an "unreasonable burden" by the Committee. see Committee on Open Government FOIL-AO-18949. Moreover, your request "transcends a normal or routine request . . . and would bring in its wake an enormous administrative burden that would interfere with the day-to-day operations of an already heavily burdened bureaucracy." Fisher & Fisher v. Davison, 1988 N.Y. Misc. LEXIS 876, 9-10 (NY Sup. Ct., 1988).

Your request would require the Department to review several thousand emails to determine which are responsive to your request. Additionally, the Department would have to

review each email to determine whether such emails are spam, junk mail, or newsletters and what exemptions or privileges exist that would prohibit disclosure of certain emails. This denial is without prejudice to submit a new request that reasonably describes the records sought.

In accordance with Public Officers Law § 89(4), you may appeal this determination within 30 days by writing to FOIL Appeals Officer, New York State Department of Financial Services, One State Street, 20th Floor, New York, NY 10004 or by email to FOIL.Appeals@dfs.ny.gov.

Very truly yours,



Colleen Dawson
Senior Attorney